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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

VERBATIM RECORD OF THE 388th MEETING

Held at Headquarters, New York,
on Tuesday, 15 June 1993, at 3 p.m.

Chairman: Mr. HOHENFELLNER (Austria)

- Report of the Legal Subcommittee on the work of its thirty-second session (continued)

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The meeting was called to order at 3.35 p.m.

REPORT OF THE LEGAL SUBCOMMITTEE ON THE WORK OF ITS THIRTY-SECOND SESSION (A/AC.105/544) (continued)

Mr. GONZALEZ BUSTOS (Mexico) (interpretation from Spanish): Like other delegations that have already spoken on this agenda item, my delegation feels that major progress was made on the three substantive items considered at the thirty-second session of the Legal Subcommittee, which was held here in New York in March and April this year under the effective chairmanship of Mr. Vaclav Mikulka. This progress was also achieved thanks to the efforts of the three Chairmen of the Working Groups on each item, and my delegation wishes to pay them a tribute.

My delegation greatly appreciates the work carried out by this Subcommittee, which is responsible for considering the legal aspects of the important items on its agenda and the elaboration of universally acceptable legal norms on those items, with the necessary contribution to its discussion of the scientific and technological elements made by the relevant Subcommittee of the Committee on the Peaceful Uses of Outer Space (COPUOS). The work and the mandates of the two Subcommittees are complementary.

Accordingly, my delegation welcomes the fact that, after more than 10 years of debate and negotiation in the two Subcommittees, the General Assembly at its current session adopted without a vote the Set of Principles Relevant to the Use of Nuclear Power Sources in Outer Space. This shows that, when there is the necessary political will, it is possible to arrive at agreements of universal benefit. We urge the members of the Subcommittee to continue working in the same spirit of cooperation and joint endeavour.

(Mr. Gonzalez Bustos, Mexico)

During the debate on the item on the question of early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, my delegation mentioned a series of provisions that, in our opinion, should be considered and duly clarified when the process of revising the Principles begins, during the next session of the Subcommittee. This does not mean reopening the debate on any point, but rather giving greater clarity and effectiveness to an instrument that we consider very useful and relevant, and that fulfils an important function in the codification of international space law.

My delegation continues to support all efforts aimed at determining the definition and delimitation of outer space. Accordingly, it is participating actively in the search for wordings and mechanisms directed towards attaining this objective. We believe that the document submitted by the Russian Federation, to which other delegations have contributed and which made it possible to develop a draft questionnaire on technical aspects that is to be sent out to Governments, could serve as a basis for beginning negotiations towards achieving a consensus agreement. Also, we stress that it is advisable for the technical opinion of the International Civil Aviation Organization to be requested on some of the questions asked in the questionnaire.

My delegation wishes to express its appreciation to the delegation of Colombia for introducing the working paper on the "Geostationary satellite orbit" (A/AC.105/C.2/L.192). In our opinion, this document, which gives the views of many delegations on the question, is an excellent basis for negotiation that should be put to good use and that may pave the way to an understanding on a limited resource of great importance to the developing countries.

(Mr. Gonzalez Bustos, Mexico)

My delegation joined with 10 other developing countries in sponsoring the document entitled "Principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes" (A/AC.105/C.2/L.182/Rev.1) that was submitted during the discussion of the item on the consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries. The document is a revised draft of the one submitted to the Legal Subcommittee last year in Geneva, and reflects most of the observations made on that occasion. We therefore believe that it is a working document of capital importance that could help in reaching an agreement on this subject. As my delegation indicated in presenting it, the document is the result of an invaluable joint effort by the sponsoring countries that includes a number of major concessions made in the spirit of seeking consensus, and it is accordingly essential that that same spirit should motivate all other countries when the document is considered.

In conclusion, I should like to express my Government's support in connection with the need for the Legal Subcommittee to have the time it needs to complete its discussions without detriment to the importance attached to each of the items on its agenda or to the need, which my delegation has made clear, to have the subject of space debris included in that agenda at an appropriate time so that the issue can be dealt with as a whole and thoroughly.

Mr. ZAMAN (Pakistan): We have before us for our consideration the report of the Legal Subcommittee on the work of its last session. Our delegation appreciates the efforts made by the Chairmen of the Working Groups established to carry out the debate on the three substantive agenda items.

However, in our delegation's view, there seems to have been little progress during that session of the Legal Subcommittee. Concerning the question of early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, there was a general view in the Legal Subcommittee that it would be premature at this stage to undertake a comprehensive revision so soon after the adoption of the Principles.

Our delegation, noting with satisfaction the adoption of the Principles by the General Assembly, is of the view that, instead of revisiting the Principles with a view to revising them, it is perhaps time to make an effort to implement them. The Principles may be revised, should it be warranted, only on the basis of the latest scientific and technical considerations, and, for this, a thorough discussion should first take place in the Scientific and Technical Subcommittee.

Our delegation anticipates that further constructive debates will be held on all agenda items at the next session of the Legal Subcommittee so that the outstanding issues on the agenda are suitably resolved.

Mr. WANG Chengjun (China) (interpretation from Chinese): Mr. Chairman, first, please allow me, on behalf of the Chinese delegation, and through you, to express our gratitude to Mr. Mikulka, Chairman of the Legal Subcommittee, for the painstaking and fruitful efforts he made in presiding over the work of the Subcommittee.

The Chinese delegation attaches great importance to and highly values the work of the Legal Subcommittee. We have always believed that the development

(Mr. Wang Chengjun, China)

of international space law and the elaboration of legal principles for space activities will have great significance in minimizing space conflict and in promoting international peace and security.

We also believe that there is an inseparable correlation between space law and space science and technology. The Chinese delegation has always participated actively in the development of a legal framework for outer space with a view to consolidating and furthering human achievements there.

I should now like to make some comments on the last session of the Legal Subcommittee and on its report.

The question of nuclear power sources has for years been a focus of discussion in the Subcommittee. Now, after years of work there, and especially as a result of the continuous efforts made by the Subcommittee Chairman and many of its members, the Principles Relevant to the Use of Nuclear Power Sources in Outer Space have been adopted. This is an important step forward and earns our appreciation.

Admittedly, there are still shortcomings and imperfections in the Principles, but if we open up discussion on them immediately we may end up undermining what we have achieved through years of effort, consequently weakening the important role the Principles can play. Since the Principles involve many technical questions, it may be advisable for further legal endeavours to wait until the Scientific and Technical Subcommittee provides relevant information in this respect. The Legal Subcommittee can then make meaningful evaluations and the necessary amendments based on the realities of the implementation of the Principles.

We think that this course of action is worth considering. The Chinese delegation has no objection to retaining this item on our agenda for consideration at the Committee's next session.

(Mr. Wang Chengjun, China)

On the complex question of the definition and delimitation and outer space, it seems that the time is not yet ripe to delimit air space and outer space.

Regarding the question of the geostationary orbit, we believe that its use should be based on principles of fairness, economy and efficiency and that consideration must be given to the interests of all countries - in particular of the developing countries, including the equatorial countries. It has always been our view that the functions of the Committee on the Peaceful Uses of Outer Space (COPUOS) and those of the International Telecommunication Union (ITU) can be complementary. The Committee must discuss certain issues, and there is a need within the United Nations system to elaborate a new set of principles as a complement to the ITU Convention.

With respect to the question of outer space benefits, we appreciate the efforts made by Argentina and nine other countries to provide us with the working document entitled "Principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes" (A/AC.105/C.2/L.182/Rev.1). Though the document can still be improved on, it can serve as a basis for our discussions. The Chinese delegation supports and appreciates all efforts to enable more countries to participate in and benefit from outer space activities through COPUOS.

As a developing space country, China has always attached great importance to and actively taken part in the elaboration of space law, and has always had a positive and constructive attitude towards the work of the Legal Subcommittee. We expect the Subcommittee to continue to make progress.

Mr. HASIBUAN (Indonesia): As we all are aware, space, space science and technology and the applications thereof have provided us with capabilities and opportunities for developing our Planet Earth.

However, without a strong vision on the uses of outer space for peaceful purposes for the equitable and sustainable development of all nations, space, space science and technology could negatively affect the growth, progress and preservation of our world.

It is with this in mind that my delegation would like to reiterate our particular concern at the use of a very precious and limited natural resource, the geostationary orbit.

Progress is an ongoing process within a set of ethics and values, and within social, economic, political and legal frameworks. My delegation calls once again on the Secretariat to continue to undertake rigorous technical studies on this matter in order to provide a foundation for the development of rules of conduct and regulations within the legal framework of international space law.

In particular, my delegation is of the opinion that these studies should result in the establishment of a sui generis legal regime with regard to the rules and regulations concerning access to and the use of the geostationary orbit which would guarantee and establish the equitable rights of all States, taking into account the special needs of developing countries, in accordance with their legitimate needs and aspirations now and in the future.

In addition and in the same context, we would like to express our concern at the escalating number of telecommunication satellites on the geostationary orbit, in particular that segment of it above the Asia-Pacific region, above the Indonesian archipelago. We are also concerned at the planned deployment

(Mr. Hasibuan, Indonesia)

of small satellite systems circling the globe at lower altitudes, the so-called Small LEO and Big LEO (low Earth orbit) satellite systems. My delegation would also like to point out the fact that lower-altitude orbital space is also a limited natural resource.

Without prejudice to the work of the International Telecommunication Union, my delegation is of the opinion that there is cause for concern: first, with the issue of securing access in the future to that limited natural resource, the geostationary orbit; and, secondly, with the issue of radio frequency allocations, another limited national resource. A third concern is the rising possibility of collisions between satellites and other space objects, creating space debris and thus possibly endangering space activities, and the related problems of the re-entry of discarded space objects and other space debris into our atmosphere.

My delegation believes that it is imperative to identify and define the scientific, technical and legal aspects of the question in order to arrive at a basic understanding of those scientific and technical aspects which are necessary to establish the rules of conduct, laws and regulations related to that question.

In view of the foregoing, my delegation deems it necessary to retain the question of the geostationary orbit and to place the question of space debris on the agenda of the Committee on the Peaceful Uses of Outer Space.

Before closing, I should like also to express our appreciation to the distinguished representative of India for his eloquent appeal on the need to convene the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE 3) in a developing country in the near future. My delegation supports that appeal.

Ms. VENTURINI (Italy): The Italian delegation would like to express its satisfaction at the positive developments registered in the Legal Subcommittee, developments which are reflected in its report (A/AC.105/544). We greatly appreciate the efforts of those delegations who elaborated draft documents for the Legal Subcommittee, which served as useful grounds for discussion. We also wish to assure all the delegations that submitted their views to the Legal Subcommittee that the Italian delegation has followed the debates with great attention and in a spirit of cooperation.

The Italian delegation recognizes the valuable progress made by the Legal Subcommittee in the methods of its work during its thirty-second session. Indeed, flexibility in allocating time for consideration of items on its agenda will considerably improve the utilization of conference-servicing resources by the Subcommittee. All delegations have accepted the exercise of flexibility in a spirit of cooperation, which is pivotal to a satisfactory outcome.

The Italian delegation is confident that this flexibility will be successful and might possibly be extended to the methods of work of the Scientific and Technical Subcommittee and of the main Committee, for the purpose of further improving the utilization of conference-servicing resources.

The Italian delegation, following the restructuring of the Secretariat, takes note that the Office for Outer Space Affairs will be relocated to Vienna. We have also been informed that in the future the Office for Outer Space Affairs will be responsible for providing meeting services for the Committee on the Peaceful Uses of Outer Space as well as for its Subcommittees, and that the conference-servicing requirements for the Committee and its subsidiary bodies can be met from existing resources of the regular budget for conference services in Vienna.

(Ms. Venturini, Italy)

In the opinion of the Italian delegation, given the circumstances, the venue of the meetings of the Legal Subcommittee should be determined by taking the decision that would imply lower costs for the Secretariat and that at the same time would enable all member States to attend the Subcommittee's meetings regularly. In that connection, a comparative assessment of the estimated costs envisaged for each solution would be very helpful.

In any case, the Italian delegation intends to maintain an open attitude. Therefore, we are ready to examine other suggestions and are prepared to agree with decisions upon which consensus among all delegations can be reached.

Mr. ZAWELS (Argentina) (interpretation from Spanish): Today we are considering agenda item 6, "Report of the Legal Subcommittee on the work of its thirty-second session". In my delegation's view, that session took place in a constructive and fruitful working climate; in large part this was the result of the excellent work of the Subcommittee Chairman, Mr. Vaclav Mikulka.

Let me briefly review the major aspects of the session.

First, the item on the early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space did not generate the comprehensive debate for which we had hoped. But we must note the extraordinary adoption by the General Assembly at its forty-seventh session of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

Secondly, the item on the delimitation of outer space continued to be considered on the basis of the Russian proposal, an innovative approach that aroused fresh expectations. During the session, delegations expressed interest in the proposed preparation of a questionnaire on space objects to

(Mr. Zawels, Argentina)

find out the opinions of States on this important and specific subject. That proposal was given form in the draft questionnaire submitted by the Chairman of the Working Group and appearing in the unofficial working paper (A/AC.105/C.2/1993/CRP.1). My delegation trusts that at its next session the Subcommittee will adopt the questionnaire.

Thirdly, with respect to the item on the geostationary satellite orbit, delegations continued to enrich the debate. Let me mention in particular the Colombian delegation's submission of working paper A/AC.105/C.2/L.192, which was based on earlier informal proposals and which enabled the Subcommittee to consider in a realistic way the question of equitable access to the geostationary satellite orbit. That approach does not encroach upon the work of the International Telecommunication Union (ITU); to the contrary, it calls for closer cooperation between ITU and this Committee.

Finally, the item "Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries" was the subject of extensive discussion on the basis of a revision of the document (A/AC.105/C.2/L.182/Rev.1) submitted by a number of countries, including Argentina. The revised document incorporated most of the comments and concerns stated during the thirty-first session of the Subcommittee; it enabled us to make progress towards a consensus approach. The sponsors have undertaken to submit a new revision incorporating the comments made at the thirty-second session.

In the view of my delegation, the Legal Subcommittee is the nucleus of the outer space Committee: it makes an effective contribution to the

(Mr. Zawels, Argentina)

progressive development of international space law. My delegation strongly supports its work and hopes that in the future its agenda will come to include new items, such as that on space debris, which, we hope, will be dealt with by the Scientific and Technical Subcommittee.

My delegation considers that the Legal Subcommittee has achieved the goals set for the rationalization of its work and remained faithful to its specific mandate, such as dealing with the development of legal norms. However, to the extent that the question of nuclear power sources in outer space is not the subject of active debate, it is now possible to envisage adding flexibility to the Subcommittee's work. But this must not take away from the working time assigned to the Subcommittee's other items; it should be possible automatically to adjust our working time in case of renewed interest in the item on nuclear power sources or in the event of the addition of a new agenda item.

This year we must also consider the venue of the meetings of the Legal Subcommittee in the light of the transfer of COPUOS to Vienna. That change will have a positive effect on our work thanks to the efforts and the well-known hospitality of the Government and the people of Austria. In that connection, my delegation will be flexible within a reasonable range of options: either that all meetings are held at Vienna, or that we retain the principle of rotation between Europe and America, in this case between New York and the headquarters of COPUOS. In either case, we must consider the problem faced by some developing countries members of the Committee which have no permanent representation at Vienna.

Mr. VELLOSO (Brazil): The thirty-second session of the Legal Subcommittee took place amidst a general feeling of accomplishment in the wake of the adoption by the General Assembly of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space as set out in resolutlon 47/68. In fact, the Principles represent a consensus achieved only after a long and often difficult negotiating process which reaffirmed the important role played by the Subcommittee in the development of international space law.

My delegation therefore welcomed the fact that the Subcommittee decided to refrain from beginning an early revision of the Principles during this year's session. It is the understanding of the Brazilian delegation that, at this point in time, more attention should be given to the implementation of the Principles. A revision can await further progress in the debate currently under way in the Scientific and Technical Subcommittee. However, my delegation feels that given the continuing importance of this subject-matter, sufficient time should be allocated for discussion of it at the next session of the Legal Subcommittee.

In relation to the question of the delimitation of outer space, my delegation was encouraged by the significant steps taken during the thirty-second session of the Subcommittee. Debate was further stimulated by the preparation of a draft questionnaire to be submitted to member States. We feel that the questionnaire, along with document A/AC.105/C.2/L.189, submitted by the Russian Federation, should serve as an adequate basis for discussion of this question.

The Brazilian delegation took note with satisfaction of document A/AC.105/C.2/L.192, submitted by Colombia, on the geostationary orbit. This revised document incorporated many of the suggestions made by delegations

(Mr. Velloso, Brazil)

during the thirty-first session and could be a good starting-point for achieving progress in the debate on the utilization of the geostationary orbit.

(Mr. Velloso, Brazil)

As to the question of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into account the needs of developing countries, the Brazilian delegation, along with the delegations of nine other sponsoring countries, presented a revised version of document A/AC.105/C.2/L.182, which went far in seeking to accommodate many of the reservations expressed by various delegations at Geneva in 1992. My delegation firmly believes that this document can serve as a focal point for the discussion of this topic; that belief is supported by the intensity of the debate on the item during the thirty-second session of the Subcommittee.

As my delegation has stated before, document A/AC.105/C.2/L.182/Rev.1 aims at providing a framework for the furtherance of international cooperation in outer space. That cooperation must, by definition, be of a voluntary nature, but it should take into account the stage of development of the countries involved in order to maximalize the benefits to be derived by all parties to this cooperation. This, however, should not be interpreted as a unilateral transfer of technology but rather as a cooperatlve enterprise to be undertaken on a just and equitable basis, with a clear understanding of the need for fair and adequate compensation for any such transfers.

Throughout the deliberations of the Working Group on that item, the Brazilian delegation sought, to the best of its ability, to explain the concepts behind document A/AC.105/C.2/L.182/Rev.1 in order to avoid any misunderstanding about their utilization in the document. On this topic, it should be noted that, although the 1967 outer space Treaty remains the basis for international cooperation in outer space, it cannot be considered an end in itself, but rather as a beginning. Therefore, if discussion on this item

(Mr. Velloso, Brazil)

is to result in the progressive development of international space law, there should be some flexibility with regard to the utilization in document A/AC.105/C.2/L.182/Rev.1 of terms that appear in the 1967 Treaty.

Before closing, my delegation would like to refer to the informal consultations held by the Chairman of the Legal Subcommittee, Mr. Vaclav Mikulka, with a view to defining a working method for the Subcommittee that would allow for a more efficient use of available resources. The Brazilian delegation supports this initiative on the understanding that any decision to be made with regard to procedural matters will not be detrimental to substantive debate in the Subcommittee.

Mr. FULDA (Germany): I wish to make a few remarks about the three agenda items that were dealt with during the thirty-second session of the Legal Subcommittee.

Notwithstanding the consensus reached during last year's session of the Committee on a set of Principles Relevant to the Use of Nuclear Power Sources in Outer Space and their subsequent adoption by the General Assembly in December 1992, it was decided to keep that item on the agenda of the Legal Subcommittee. Deep satisfaction at having reached this consensus was shared by all delegations; it was coupled with the conviction that a review process would be necessary to enable States to adjust the set of principles to newly emerging technologies without undermining currently valid safety standards. Even though the time does not yet seem to be ripe for any substantial changes, Germany fully supports the decision to keep the question of nuclear power sources on the agenda of the Legal Subcommittee.

Concerning the Subcommittee's agenda item 4, on definition and delimitation of outer space and on the geostationary orbit, my delegation

(Mr. Fulda, Germany)

continues to believe that any premature delimitation of air and space that is not based on solid criteria would only impede the further development of space technology and thereby contradict the principles of rational use not only of the geostationary orbit but of outer space as a whole. With regard to the question of passage rights, we would like to see the draft questionnaire concerning aerospace objects that was submitted as an informal paper by the Chairman to be discussed in the Scientific and Technical Subcommittee first.

Referring to the second issue under agenda item 4, namely the geostationary orbit, we continue to be of the opinion that the Legal Subcommittee should take due account of the relevant activities of the International Telecommunication Union (ITU). My delegation believes that appropriate measures to ensure, in practice, equitable access to the geostationary orbit for all countries in the most important field of satellite radio communications have already been taken care of by this body.

As to the last item on the Subcommittee agenda, namely space benefits, Germany has always considered the peaceful uses of outer space and the development of space technology to be a primarily international task. Therefore, Germany takes part in a wide range of activities regarding cooperation in the field of peaceful uses of outer space which have direct benefits for developing countries. Thus the task ahead of us is not to create any obligation to initiate cooperation but further to develop the existing mutually fruitful and beneficial cooperation, which is in the interests and for the benefit of all States.

Mr. RASHKOW (United States of America): At this time my delegation wishes to make a few brief comments regarding the working methods of the Legal Subcommittee.

As members of the Committee are well aware, it has been the long-standing view of my delegation that there is a need for the Legal Subcommittee to improve further its utilization of conference services. We, like other members of the Committee, welcome the measures that were adopted at the last session of the Legal Subcommittee, but we believe that more can and should be done. In this regard, we commend Mr. Mikulka, Chairman of the Legal Subcommittee, for his useful suggestions aimed at further improving the working methods of the Subcommittee. We have always been a proponent of greater efficiency in this area, and that is why we are prepared to continue to participate in discussions on this matter at future sessions of the Subcommittee.

Now is an especially propitious time for us to pursue this important subject. All of our Governments have witnessed and welcomed the revitalization of the United Nations over the past few years. While attention is often focused on the work of the Security Council in maintaining and restoring international peace and security, the revitalization of the United Nations has not been limited to the Security Council and its important work. We have seen renewed interest and a new activism throughout the United Nations system. For the United Nations, an important aspect of this revitalization has been an intensive focus upon efforts to reorganize and streamline the Organization in order to make it more effective and efficient in achieving its very important tasks.

The United States delegation believes that within the United Nations system generally, and particularly within this Committee, these efforts to

(Mr. Rashkow, United States)

improve working methods - in this case those of the Legal Subcommittee - can be improved upon. We are confident that other delegations share our view of the importance of this issue. We look forward to working with those delegations and with the Chairman of the Legal Subcommittee, Mr. Mikulka, in furthering our mutual efforts on this important subject.

The meeting rose at 4.20 p.m.